

COPY

in opinion

57R

May 26, 1958

NEW HAMPSHIRE LAW LIBRARY

OCT 01 1998

CONCORD, N.H.

Franklin F. Stearns, Jr., Esq.
142 High Street
Portland, Maine

Dear Mr. Stearns:

This is in reply to your recent letter in which you inquired if one may legally sell lobsters in New Hampshire by the piece rather than by the pound.

We answer in the negative.

We believe the matter to be governed by the following statutory provision:

"Sale of Meat, Fish, and Fowl. All dressed meat, fresh and salt, meat products, fish, and dressed fowl shall not be sold or offered for sale except by weight. Provided, however, that the provisions of this section shall not apply to the sale of these articles where both buyer and seller in writing agree to other methods of sale." RSA 359:44.

It is recognized that the statute quoted leaves room for the argument that the word "fish" may not include shell fish or, more specifically, lobsters. The issue has not, however, been decided in our courts; and in the absence of a judicial decision to the contrary we for our part would recommend the adoption of the more comprehensive definition in a criminal proceeding for a violation of the statute.

Very truly yours,

Warren E. Waters
Deputy Attorney General

WEW/aml

cc: Ralph G. Carpenter, II, Director of Fish & Game
Clement A. Lyon, Director, Division of Markets & Standards